UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

June 19, 2007

Darryl Boyd, Principal Planner
City of San Jose
Department of Planning, Building Code and Enforcement
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113

Re: Comments on the Draft Environmental Impact Report for the Coyote Valley Specific Plan, File Number GP06-02-04//SCH # 2005062017

Dear Mr. Boyd:

The United States Environmental Protection Agency (EPA) has reviewed the above referenced Draft Environmental Impact Report (DEIR), dated March, 2007, regarding the development of approximately 7,000 acres of primarily undeveloped land located in the Sphere of Influence and Urban Growth Boundary of the southern portion of the City of San Jose, California. The proposed project will include 3,783 acres of developed land to house an estimated 70,000-80,000 residents after the projected 25-50 year build-out of the community. The following comments have been prepared under the authority of, and in accordance with the provisions of the Federal Guidelines (40 CFR 230) promulgated under the Section 404(b)(1) of the Clean Water Act (CWA). EPA has previously reviewed and submitted comments on this project's Notice of Preparation in a letter dated June 21, 2005. EPA commends City of San Jose staff for producing a comprehensive DEIR. We have comments and concerns on the issues listed below.

Mitigation Issues

In the Biological Resources chapter, which includes habitat types such as wetlands, streams and ponds, the mitigation ratio being suggested is 1:1 (Table 4.6-9). EPA believes that it is premature to set mitigation ratios without the input from all the appropriate regulatory agencies. Setting mitigation ratios is also premature prior to a functional assessment being done to more accurately address the condition of existing wetlands that are described in the DEIR as "degraded and farmed nature." A 1:1 ratio may be appropriate for ditches but should not be assumed for streams, which have higher resource function. As well, to comply with the CWA 404(b)(1) guidelines for avoidance and minimization prior to mitigation, the DEIR should address how the project has avoided impacts first, followed by a mitigation discussion.

In the Biological Resources chapter (MM-BIO-2.1), it is stated that the majority of wetlands mitigation acreage will be located in the relocated and restored Fisher Creek. The DEIR needs to identify the types of wetlands for which there is a need for mitigation. While wetlands, streams and

identify the types of wetlands for which there is a need for mitigation. While wetlands, streams and ponds are listed, there is no mention of seasonal or depressional wetlands types. The mitigation offered should be "in-kind" or match the wetland type being impacted, and if that is found to be infeasible, the mitigation ratio should be adjusted to compensate for "out-of-kind" mitigation.

Finally, EPA supports the mitigation proposal for "preservation only" of existing stream area and length at a 10:1 ratio; however, it should be noted that preservation should only be considered when other mitigation measures have been exhausted. For example, the Coyote Canal is referenced as "not currently being used by the SCVWD" and "structurally unsound." If there is no current use for it, EPA seeks its consideration as a possible area for mitigation.

Bridge Crossing

Adequate information was not provided in the DEIR to evaluate the bridge design, its construction, or its potential impacts on jurisdictional waters. We support the submission of supplemental environmental information to proceed with the permitting of a bridge over Coyote Creek to demonstrate compliance with EPA's Guidelines. The location of the bridge, as well as its design, must be the least environmentally damaging practicable alternative. Consideration must be given to a bridge design that will not impact the hydrologic regime of Coyote Creek and provide for wildlife movement needs.

Water Quality

The Hydrology and Water Quality section indicates that there will be a less than significant level of impact associated with placing urban uses within the 100-year floodplains of both Coyote Creek and Fisher Creek because the development will be placed on fill material to elevate any structure from possible inundation. However, EPA believes the significant impact not addressed in the CVSP is the long-term degradation of water quality due to impervious surface development. The DEIR should address water quality affects from the decreased amount of water able to naturally percolate, and the water quality impacts of eliminating portions of the aforementioned creeks' 100-year floodplains.

Wildlife Corridors and Riparian Buffers

The Biological Resources section describes wildlife corridors in the Coyote Valley connecting the Santa Cruz Mountains with the Diablo Range, including two specific areas-- the Greenbelt and Tulare Hill/Laguna Seca area. A site specific evaluation of the most appropriate corridor sites and corridor widths should be made, as well as a specific recommended riparian buffer width for Coyote and Fisher Creeks. Current literature recommends a range from 100 feet to 300 feet, depending on specific wildlife needs. Historical records of location and flow discharge should also be evaluated to adequately protect anadromous species' habitat and protect against increased runoff after storm events.

Hydrology/Groundwater

The Hydrology and Water Quality section indicates that there will be advanced treated wastewater provided for the CVSP for both irrigation and groundwater recharge purposes. There are no details provided on treatment plant and groundwater recharge area locations. EPA strongly recommends that any groundwater extraction points be located beyond any groundwater tables that influence Coyote Creek hydrology.

Coyote Lake Management

The Hydrology and Water Quality section discusses Coyote Lake's purpose as a stormwater/flood control facility. There is some discussion on the management of this lake, including the need for aeration. EPA is concerned that all practicable management options to ensure this lake's flood control capabilities have not been explored nor described. For example, routine excavation of settled materials, trash accumulation, vegetation management, mosquito abatement, and invasive species control should be evaluated. We recommend further discussion of the lake's expected water quality including seasonal changes and a description of how water quality will be monitored.

Greenbelt

We are concerned that the future of the Greenbelt area is not well defined and we request clarification of the different and potentially conflicting uses that have been proposed in the DEIR. In our reading of the DEIR, we found the Greenbelt designated as: 1) the area where farmland will be mitigated at a 1:1 ratio; 2) as the area where wildlife corridors will be placed; 3) as an area that could be used for wetlands mitigation; and, 4) as an area for groundwater recharge, while also allowing the existing single-home family dwellers within their property rights to proceed with development.

Cumulative Impacts

EPA would like clarification of the Cumulative Impacts section which does not appear to take into consideration impacts from other large scale developments planned in neighboring cities, such as Morgan Hill. Please indicate if the DEIR's project scope intends to analyze cumulative impacts from nearby developments.

Other Comments/Questions

EPA has the following additional comments:

- MM BIO-2.1, last bullet point indicates "A USACE jurisdictional delineation must be obtained for all wetland areas proposed for development prior to construction." Please clarify this sentence by striking "prior to construction" and adding "...before the USACE can issue a permit."
- MM BIO-2.2, 5th bullet indicates that "Restoration of off-site streams may be accomplished through in-bed stream improvements...", EPA would like the sentence clarified so that stream improvements are not synonymous with restoration.

- Please clarify whether any of the hydrologic modeling used to plan this project included potential climate change effects (i.e., projections for changes in the 100 year floodplain, peak flow event, etc...).

Thank you for the opportunity to review this DEIR. If you have any questions, please contact Luisa Valiela of my staff at (415) 972-3400.

Sincerely,

for Elizabeth Goldman

David W. Smith, Supervisor
Wetlands Regulatory Office